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(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 4 a.m. on January 14, 2009, through 10 p.m. on January 25, 2009.

Dated: December 5, 2008.

Austin J. Gould,

Commander, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland, Acting.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA-HQ-OAR-2004-0489; FRL-8749-5]

RIN 2060-AN20

Air Emissions Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes changes to EPA's emission inventory reporting requirements. This action consolidates, reduces, and simplifies the current requirements; adds limited new requirements; provides additional

flexibility to states in the ways they collect and report emissions data; and accelerates the reporting of emissions data to EPA by state and local agencies.

DATES: This final rule is effective on December 17, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0489. All documents in the docket are listed on the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Emissions Reporting Requirements Docket, EPA/DC, EPA West Building, Room 3334, Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact Dennis Beauregard, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Mail Code C339-02, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5512; fax number: (919) 541-0684; e-mail address: beauregard.dennis@epa.gov. For legal questions, please contact Kristi Smith, U.S. EPA, Office of General Counsel, Mail Code 2344A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564-3068, e-mail at smith.kristi@epa.gov.

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I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by this action include:

Category	NAICS code ^a	Examples of regulated entities
State/local/tribal government.	92411	State, territorial, and local government air quality management programs. Tribal governments are not affected, unless they have sought and obtained treatment as state status under the Tribal Authority Rule and, on that basis, are authorized to implement and enforce the Air Emissions Reporting Requirements rule.

^aNorth American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action.¹ This action requires states to report their emissions to us. It is possible that some states will require facilities within their jurisdictions to report emissions to the states. To determine whether your facility will be regulated by this action, you should examine the applicability criteria in 40 CFR 51.1 of this rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final amendments will be placed on the TTN's Clearing House for Inventories and Emission Factors (CHIEF) Web site at <http://www.epa.gov/ttn/chief>.

C. Public Comments on Proposed Rule

The 120-day comment period for the proposed rule expired on May 3, 2006. We received comments from 39 correspondents. These comments were submitted by 22 state and local agency representatives, 1 organization of state and local clean air agencies, 9 industries, 2 chambers of commerce and 5 commenters with no identified affiliation. While several comments were received days after the comment period ended, EPA did not treat these comments differently from comments received during the comment period. EPA has carefully considered all comments in developing the final amendments. Summaries of significant comments and EPA's responses are contained in this preamble. All comments are summarized and addressed in the document titled "Response to Comments," which is available from the docket.

¹ As prescribed by the Tribal Authority Rule (63 FR 7253, Feb. 12, 1998), codified at 40 CFR part 49, subpart A, tribes may elect to seek treatment as State (TAS) status and obtain approval to implement rules such as the AERR through a Tribal Implementation Plan (TIP), but tribes are under no obligation to do so. However, those tribes that have obtained TAS status are subject to the AERR to the extent allowed in their TIP. Accordingly, to the extent a tribal government has applied for and received TAS status for air quality control purposes and is subject to the AERR under its TIP, the use of the term State(s) in the AERR shall include that tribal government.

D. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by February 17, 2009. Only those objections to this final rule that were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides a mechanism for us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

II. Background and Purpose of This Rulemaking

In today's action, EPA is amending the emission inventory reporting requirements in 40 CFR part 51, subpart A, and in 40 CFR 51.122. This action harmonizes reporting requirements under the NO_x SIP Call and the Consolidated Emissions Reporting Rule (CERR). It also removes and simplifies some existing emissions reporting requirements which we believe are not necessary or appropriate; allows states to better track changes in source emissions, shutdowns, and startups over time by using the 40 CFR 70 definition of major source for point source reporting; deletes a requirement for states to report biogenic emissions; and offers states the option of reporting emission model inputs in lieu of reporting emissions for certain source categories. These changes were widely

supported by states because they will simplify and reduce the states' reporting burden.

In the preamble to the January 3, 2006, AERR proposed rulemaking (71 FR 69) we discussed state reporting requirements under the Clean Air Interstate Rule (CAIR) and included requirements for CAIR reporting in 40 CFR 51.123–51.125 under Subpart A. On July 11, 2008, the United States Court of Appeals for the District Court of Columbia Circuit vacated CAIR in its entirety. Accordingly, all references to CAIR and its reporting requirements have been removed from the final AERR. If CAIR (or some similar rule) becomes effective in the future, EPA will initiate a new rulemaking, as necessary, to address emission reporting requirements for that rule.

Because we are consolidating, harmonizing and updating two pre-existing sets of state emissions reporting requirements, we are reviewing the purpose, authority, and history of emissions reporting requirements in general.

Emission inventories are critical for the efforts of state, local, and Federal agencies to attain and maintain the National Ambient Air Quality Standards (NAAQS) that EPA has established for criteria pollutants, such as ozone, particulate matter (PM) and carbon monoxide (CO). To assist these efforts, EPA initiated an effort in the early 1990's to develop a central repository of inventory data for all states that is now known as the National Emission Inventory (NEI). Emission inventory data reported electronically under the CERR is stored in the NEI database and used by EPA and by states for air quality modeling, tracking progress in meeting CAA requirements, setting policy, and answering questions from the public. States often use the NEI as a starting point in developing emission inventories for support of State implementation plans (SIPs).

Pursuant to its authority under sections 110 and 172 of the CAA, EPA has required SIPs to include inventories containing information regarding criteria pollutant emissions and their precursors (e.g., volatile organic compounds (VOC)). The EPA codified these inventory requirements in subpart Q of 40 CFR part 51 in 1979 and amended them in 1987.

The 1990 Amendments to the CAA revised many of the CAA provisions related to the attainment of the NAAQS and the protection of visibility in Class I areas. These revisions established new periodic emission inventory requirements applicable to certain areas that were designated nonattainment for

certain pollutants. For example, section 182(a)(3)(A) required states to submit an emission inventory every 3 years for ozone nonattainment areas beginning in 1993. Similarly, section 187(a)(5) required states to submit an inventory every 3 years for CO nonattainment areas. The EPA, however, did not immediately codify these statutory emission reporting requirements in the CFR, but simply relied on the statutory language to implement them.

Title IV of the 1990 CAA Amendments also added requirements for reporting of emissions by sources subject to the Acid Rain Program (ARP). Affected sources must report hourly NO_x, SO_x and CO₂ data to EPA's Clean Air Markets Division on a quarterly basis. Generally, these sources report annual NO_x and SO_x data aggregated from the hourly ARP data as well as other criteria and precursor pollutant emissions to states to satisfy reporting requirements for state permitting and emission inventory programs.

In 1998, EPA promulgated the NO_x SIP Call which required the affected states and the District of Columbia to submit SIP revisions providing nitrogen oxides (NO_x) reductions to reduce their adverse impact on downwind ozone nonattainment areas. See 63 FR 57356 (October 27, 1998). As part of that rule, codified in 40 CFR 51.122, EPA established emissions reporting requirements to be included in the SIP revisions required under that action.

Another set of emissions reporting requirements, the CERR, was promulgated by EPA in 2002, and is codified at 40 CFR part 51, subpart A. See 67 FR 39602 (June 10, 2002). These requirements replaced the requirements previously contained in subpart Q of 40 CFR part 51, expanding their geographic and pollutant coverages, while simplifying them in other ways.

The principal statutory authority for the emission inventory reporting requirements outlined in this preamble is found in CAA section 110(a)(2)(F), which provides that SIPs must require "as may be prescribed by the Administrator * * * (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources." Section 301(a) of the CAA provides authority for EPA to promulgate regulations under this provision.² At present, the emissions

reporting requirements applicable to states are contained in two different locations: Subpart A of 40 CFR part 51 (the CERR) and 40 CFR 51.122 in subpart G (the NO_x SIP Call). This final rule will consolidate these requirements, with modifications as described below. The modifications are intended to harmonize, reduce, and simplify the emissions reporting requirements, and also make emissions reporting easier.

Under the NO_x SIP Call requirements in 40 CFR 51.122, NO_x emissions for a defined 5-month ozone season (May 1 through September 30) from sources that the state has subjected to emissions control to comply with the NO_x SIP Call are required to be reported by the affected states to EPA every year. However, NO_x emissions from sources reporting directly to EPA as part of the NO_x trading program are not required to be reported by the states to EPA every year. The affected states are also required to report ozone season emissions and typical summer work weekday emissions of NO_x from all sources every third year (2002, 2005, 2008, etc.). This triennial reporting process does not have an exemption for sources participating in the NO_x SIP Call emissions trading program. Section 51.122 requires that a number of data elements be reported in addition to ozone season NO_x emissions. These data elements describe some of the source's specific physical and operational parameters.

Emissions reporting under the NO_x SIP Call (promulgated October 27, 1998) was required for the 2002 inventory year which was the year prior to the emissions reductions requirement. The reports are due to EPA on December 31 of the year following the inventory year. For example, emissions from all sources and types in the 2002 ozone season were required to be reported on December 31, 2003. However, because the Court which heard challenges to the NO_x SIP Call delayed the implementation by one year to 2004, see *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000), *cert. denied*, 121 S. Ct. 1225, 149 L. ED. 135 (2001), no state was required to start reporting until the 2003 inventory year. In addition, EPA subsequently promulgated a rule to subject Georgia and Missouri to the NO_x SIP Call with an implementation date of 2007. See 69 FR 21604 (April 21, 2004). For these states, emissions reporting began with 2006. The emissions reporting requirements under the NO_x

(requires emission inventories from CO nonattainment areas).

SIP Call presently affect the District of Columbia and 20 states.

As noted above, the other set of emissions reporting requirements is codified at subpart A of part 51. Although entitled the "Consolidated Emissions Reporting Rule," the CERR left in place separate reporting requirements for the NO_x SIP Call under 40 CFR 51.122. The CERR requirements were aimed at obtaining emissions information to support a broader set of purposes under the CAA than were the reporting requirements under the NO_x SIP Call. The CERR requirements apply to all states and include the reporting of all criteria pollutants and criteria pollutant precursors.

The CERR and the NO_x SIP Call both require states to report emissions of all sources at 3-year intervals (inventory years 2002, 2005, 2008, etc.). However, there are a number of differences between the two rules. The CERR also requires reporting of certain large sources every year, and the required reporting date under the CERR is 5 months later than under the NO_x SIP Call reporting requirements. Also under the CERR, emissions must be reported by all states as a total for the entire inventory year, for a typical work weekday in winter, and for a typical work weekday in summer, but not a total for the 5-month ozone season as is required by the NO_x SIP Call. The NO_x SIP Call requires a special all-sources report by affected states for the year 2007 due December 31, 2008.³ Finally, the CERR and the NO_x SIP Call differ in what non-emissions data elements must be reported.

III. Response to Comments

We have addressed all comments in detail and placed them in the Response to Comments document in the docket. The comments that concern significant proposed changes have been summarized and addressed, as discussed below. As an aid to the reader, we have grouped related comments under headings that generally correspond to the organization of the proposed rulemaking.

A. Major Source Definition for Point Source Reporting

In all states, we proposed to expand the definition of sources that must be reported in the point source format,

³ It is important to note that the NO_x SIP Call requires a special all-sources report by affected States for the 2007 inventory year due December 31, 2008. While the CAIR had removed the requirement to submit the special all-sources report, the recent vacatur of CAIR in its entirety means that the special all-sources report is once again a requirement under the NO_x SIP Call.

² Other CAA provisions relevant to these proposed amendments include section 172(c)(3) (requires SIPs for nonattainment areas to include comprehensive, current inventory of actual emissions, including periodic revisions); section 182(a)(3)(A) (requires emission inventories from ozone nonattainment areas); and section 187(a)(5)

resulting in fewer sources included in the nonpoint source formats.⁴ We proposed to base the requirement for point source format reporting on whether the source is a major source under 40 CFR part 70 for the pollutants for which reporting is required, *i.e.*, for CO, VOC, NO_x, sulfur dioxide (SO₂), PM_{2.5}, PM₁₀, lead and ammonia (NH₃). Those major sources were further classified as Type A (large sources) and Type B (small sources), with differing reporting requirements for each type. Currently, the requirement for point source reporting is based on thresholds of actual emissions during the inventory year. While it has always been an option for states to include all such sources, and we know that some states already do, expanding the point source definition may require more sources to be reported as point sources every third year. Affected states would continue to report their actual emissions, but the new approach would make it possible to better track changes in source emissions, shutdowns, and start-ups over time. Because states have existing lists of sources subject to 40 CFR part 70 requirements, this approach would result in a more stable universe of reporting point sources, which in turn would facilitate elimination of overlaps and gaps in estimating point source emissions, as compared to nonpoint source emissions. Under this proposal, states would know well in advance of the start of the inventory year which sources would need to be reported. We proposed that these new requirements begin with the 2008 inventory year.

We received a number of comments on the provision regarding point source format reporting. All commenters supported changing the definition of a point source for reporting purposes to that used in 40 CFR part 70. Therefore, EPA intends to implement this reporting change but with certain caveats prompted by other comments, as discussed below.

One commenter thought that the table included in the definition for point source in the proposed rule was

inconsistent with the proposed reporting requirements using the Title V definition. The commenter noted that the definition for “type A source” seemed inconsistent with the proposed change from actual emissions to “potential to emit.”

The EPA agrees with the commenter that there were some inconsistencies in the proposed rule. The preamble for the proposed rule stated that EPA is “proposing to base the requirement for point source format reporting on whether the source is a major source under 40 CFR part 70 for the pollutants for which reporting is required * * *.” This indicated that reporting thresholds for all point sources would be based upon the 40 CFR part 70 definition of “potential to emit” (PTE). However, we further stated that “we are proposing to expand the definition of what sources must be reported in point source format so that fewer sources would be included in nonpoint source emissions.” Later in the preamble, we stated that “this change may require more sources to be reported as point sources every third year.” Both sentences imply that the change would apply only to Type B sources. Application of the 40 CFR part 70 point source definition to all point sources would likely require some existing Type B point sources to be reported each year as Type A sources, which was not identified as a likely change in point source reporting.

The EPA used the definition for point source to establish that use of the 40 CFR part 70 major source definition would begin with the 2008 inventory year. Point source reporting for years prior to 2008 would continue to be based upon use of “actual emissions.” However, the point source definition includes a table for reporting Type A and B sources, and that table indicates that the reporting thresholds in the table are “in tons per year of actual emissions.” While EPA intended that the emissions reported would continue to be actual emissions, PTE was to be used to determine point source reporting requirements, and no consideration of this change is included in the table.

The proposed definition for Type A sources required use of “actual annual emissions” to determine reporting requirements. However, the use of actual annual emissions to determine Type A sources appears to conflict with the point source definition (applicable to both Type A and B point sources), which indicated that emission reporting for 2008 and later years would be determined using the 40 CFR part 70 definition of “major source,” which uses PTE.

Given the confusing preamble language and apparent conflict in the text of the regulation, EPA will accept use of either approach to determine Type A point source reporting requirements for the 2009 inventory year. For the inventory years following 2009, EPA will expect states to use the 40 CFR part 70 major source definition for all point sources to simplify reporting requirements, as discussed in the proposal preamble. Accordingly, EPA has revised the definition of Type A sources and Table 1 in Appendix A to subpart A to make clear that the 40 CFR part 70 definition of major source will be used to determine point source reporting requirements following the 2009 inventory year.

B. Harmonizing Report Due Dates

The CERR reporting dates are 5 months later than the NO_x SIP Call. The NO_x SIP Call rule requires the affected states to submit emission inventory reports for a given ozone season to EPA by December 31 of the following year, 12 months after the end of the inventory year. The CERR requires similar but not identical reports from all states by the following May 31, 17 months after the end of the inventory year. The EPA believes that harmonizing these reporting dates would be efficient for both states and EPA.

The EPA proposed to shorten the timeline of 17 months for reporting under the CERR to be consistent with the 12 months for reporting under the NO_x SIP Call. A second alternative requiring 12 months for reporting of point sources and 17 months for nonpoint and mobile sources was also proposed.

Most commenters expressed support for the concept of harmonizing the reporting requirements under the NO_x SIP Call and the CERR, but were concerned about the alternative of using the 12-month timeline for some or all sources for the 2008 inventory year. In general, the commenters were concerned that a 12-month timeline might compromise the quality of the data and urged EPA to harmonize the report due date at 17 months for all emission sectors (point, nonpoint, and mobile).

The EPA agrees with the concerns of the commenters regarding the proposal to tighten the timeline to 12 months for the 2008 inventory year, and accordingly, has decided to delay implementing the AERR and the 12-month timeline for reporting of all emission sectors until 2009. Since the 2009 and 2010 inventory years require reporting for Type A (large point) sources only, one impact of this action

⁴ We use the term “nonpoint source” to refer to a stationary source that is treated for inventory purposes as part of an aggregated source category rather than as an individual facility. In the existing subpart A of part 51, such emissions sources are referred to as “area sources.” However, the term “area source” is used in section 112 of the CAA to indicate a nonmajor source of hazardous air pollutants, which could or could not be a point source. As emission inventory activities increasingly encompass both NAAQS-related pollutants and hazardous air pollutants, the differing uses of “area source” can cause confusion. Accordingly, EPA is substituting the term “nonpoint source” for the term “area source” in subpart A and in subpart G (§ 51.122 to avoid confusion.

is to delay implementing a 12-month timeline for reporting of all sources until the 2011 inventory year, which is the next 3-year comprehensive emission inventory year. For the 2008 inventory year, retaining the existing 17-month timeline under the CERR will provide additional stability for states using the new data submittal and operating procedures for the Emission Inventory System (EIS), which will be operational for the 2008 inventory year. The 17-month timeline will allow state agencies to adapt to the new data reporting and system requirements without introducing additional constraints and uncertainty to the process. It will also provide a complete inventory cycle for EPA to correct any problems with the new system procedures.

The EPA notes that although some commenters supported a 17-month timeline for reporting of all source emissions for the 2008 inventory year, we did not propose to extend the existing 12-month timeline for reporting under the NO_x SIP Call. Thus, the NO_x SIP Call 12-month timeline will be retained for the 2008 inventory year, and harmonized reporting under the AERR will be implemented for the 2009 inventory year.

C. Accelerating Report Due Dates

The EPA believes that the public is best served by making environmental information available as soon as possible. Therefore, we proposed that the reporting schedule be further accelerated for the triennial year 2011 and all following years by requiring that emissions data from all point sources be reported within 6 months from the end of the inventory year, *i.e.*, by June 30 of the following year. Under the proposed rule, reporting on all other sources would be required within 12 months, *i.e.*, by December 31 of the following year. There is precedent for requiring reporting of point source emissions data within 6 months. For example, beginning with the year 1979, states were required, under subpart Q, to report point source emissions data within 6 months. We invited comment on alternative reporting schedules of 6 to 12 months for point sources and 12 to 17 months for all other sources.

Most commenters were concerned with the proposed 6-month timeline for states to submit point source data for the 2011 inventory year. The commenters generally indicated that the accelerated schedule would create a very short timeframe for point sources to gather the emissions data needed to report to states and for states to process and quality assure the data, resulting in incomplete and inconsistent data quality. Several

commenters thought that tightening the timeline for point sources to 9 to 12 months would be possible. Some of the commenters thought that 17 months would continue to be needed for the nonpoint and mobile source inventory sectors due to the unavailability of data on a shorter schedule from other agencies needed to develop the emission estimates.

Two commenters wanted to retain the existing 17-month timeline for reporting point, nonpoint, and mobile source data. One of the commenters expressed concerns that were based primarily on having to conduct a similar data collection and compilation effort within California. The commenter thought that the time to conduct this state-based effort made accelerating the Federal emissions reporting timeline to less than 17 months unrealistic and could compromise data quality. The other commenter expressed opposition to the concept of a bifurcated reporting system which would require submittal of point and nonpoint/mobile source sector data on separate dates.

Two commenters thought that Web-based submittal tools needed to move beyond the developmental stage before it would be possible to shorten the reporting timeframe to 12 months. One of the two commenters further indicated that much of the activity data needed to develop the nonpoint source estimates are not available until 12 to 15 months after the inventory year and thought EPA should consider using previous year data as a surrogate for the current year.

The EPA agrees with the concerns expressed by most of the commenters regarding the proposed 6-month timeline for submittal of point source data by the 2011 inventory year. When EPA developed the proposed rulemaking, a project known as the "Rapid Inventory Development Pilot" was initiated. The EPA has now evaluated the results of the project and believes that a 6-month timeline for developing and submitting inventory data is not yet achievable on a consistent basis with application of proper quality assurance procedures for all emission inventory source sectors. However, the project did demonstrate that a timeline shorter than the existing 17 months is possible, since a number of states involved in the project were able to submit data to EPA 10 months after the emission inventory year.

The EPA understands that some difficulties were encountered by several of the states participating in the project, which indicates that additional time is needed to refine both the electronic tools and the procedures to support, on

a consistent basis, development and submittal of emissions data on an expedited timeline. To allow additional time for technological improvements, EPA will implement a 12-month timeline for data submittals beginning with the 2009 inventory year. The effect of this will be to require reporting of Type A (large point) sources using a 12-month timeline for the 2 years before the comprehensive triennial emission inventory effort for the 2011 inventory year. This will allow for additional development of electronic tools and refinement of data submittal procedures and for states to become familiar with operation of the new EIS before the 2011 triennial inventory is due.

D. Reporting Biogenic Emissions

We proposed to remove a requirement in the existing CERR for states to report annual and typical ozone season day biogenic emissions. Biogenic emissions are estimated by a computer model using meteorological and land use/land cover data as inputs. Because EPA can develop these data inputs directly without having them reported by state, local, and tribal agencies, we believe the requirement for reporting biogenic emissions serves no useful purpose. This change does not affect our expectation that biogenic emissions be appropriately considered in ozone and PM_{2.5} attainment demonstrations.

Many comments were submitted on the biogenic emissions reporting requirement, and all supported EPA's proposal to not include biogenic emissions reporting in the AERR. Based upon the support expressed by the commenters, EPA will implement this part of the AERR as proposed by not including the existing reporting requirements (under the CERR) for annual and typical ozone season day biogenic emissions.

E. Reporting Emission Model Inputs

We proposed a new provision that would allow states the option of providing emission inventory estimation model inputs in lieu of the actual emissions estimates developed from those inputs. This provision was limited to source categories for which, prior to the report due date, EPA developed or adopted emissions estimation models and through guidance defined their necessary inputs. This provision would allow states to take advantage of new emissions estimation tools for greater efficiency, although the states would continue to be required to provide inputs representative of their conditions. Under this option, EPA will run the emissions model(s) to calculate

emissions and will enter the emissions data into the appropriate database. Section 51.15(d) limited this option to “* * * models capable of estimating emissions from a certain source type on a national scale * * *.” and thus restricted its application to nonpoint and mobile source emission categories. We proposed that this option would be available starting with the reports on 2005 emissions. Furthermore, we invited comment on requiring states to provide model inputs for source categories for which they have utilized a widely available emissions model as a means of improving the transparency of the emission estimates themselves and the overall utility of the submissions in meeting the objectives of the emissions reporting requirements. Providing model inputs would improve EPA’s ability to assess the quality of the states’ emission estimates and to project future emissions.

We received several comments on this provision. Most of the comments were in favor of allowing the option to report model inputs in lieu of the emissions estimated from the models. However, many of the commenters did not want to see the reporting of model inputs become a reporting requirement.

The EPA agrees with the majority of commenters who supported the option of submitting input data in lieu of emission estimates and will make this an option. Although the proposed rule indicated this option would be available for reporting emissions for the 2005 inventory year, EPA intends to delay implementation of this option until the 2007 inventory year (due date May 31, 2009) since this rule was not published before the due date for data from the 2005 inventory year (May 31, 2007). Although EPA encourages states to submit model inputs where they have used a widely available model to develop emission estimates, states will not be required to submit input data when they provide emission estimates.

The EPA notes that emissions data based upon physical measurements are generally preferred over estimates developed using models or emission factors, but the Agency believes that models and emission factors are appropriate emission estimation tools when addressing the ubiquitous nature of some sources and attempting to account for the many variables affecting certain annual emission estimates. To improve the application of models and emission factors, EPA urges states to develop locally derived input data based upon physical measurements wherever possible.

F. Reporting Summer Day Emissions

We proposed to retain the requirement for reporting of summer day emissions from all sources (except biogenic sources) at three-year intervals, but to restrict the requirement to only those states with ozone nonattainment areas or states covered by the NO_x SIP Call. We proposed to restrict the requirement to VOC and NO_x emissions, but we invited comment on whether CO emissions should be required also.

Several commenters supported EPA’s proposal for reporting of summer day emissions of NO_x and VOC. Two commenters thought that ozone season-day NO_x, VOC and CO emissions should be reported for all areas, while two other commenters questioned the value of reporting summer day VOC and NO_x emissions. Another commenter thought that requiring ozone season and daily emissions for point, nonpoint, and nonroad sources was redundant since the temporal parameters needed to calculate these emissions were required to be reported.

One commenter thought that summer day emissions of CO should not be reported, while two other commenters believed that reporting CO summer day emissions was necessary but only for CO nonattainment areas.

The EPA agrees with the majority of the commenters that the reporting requirements for summer day emissions (VOC and NO_x) from all sources (except biogenic sources) at 3-year intervals should only include states with ozone nonattainment areas and states covered by the NO_x SIP Call. However, EPA believes that it is appropriate to also include summer day emissions reporting for sources in attainment counties that are covered by the nonattainment area modeling domain used to demonstrate reasonable further progress (RFP). The EPA’s current guidance requires RFP calculations to be done on an “average summer weekday emissions” basis. If the state takes credit for reductions from outside the nonattainment area, the requirement will be to determine whether there were reductions in average summer weekday emissions from those sources.

The EPA believes that reporting of CO summer day emissions is not necessary since, as noted by one commenter, other data elements already reported allow summer day emissions to be derived and CO emissions, unlike VOC and NO_x emissions, are not used for tracking RFP. Therefore, reporting of CO summer day emissions regardless of ozone attainment status will not be a requirement under the AERR.

The proposed rule indicated that “We are proposing to retain the requirement for reporting of summer day emissions * * *.” However, the CERR actually requires reporting of “work weekday emissions.” for point sources and “summer work weekday emissions” for nonpoint and mobile sources. Although we did not receive comments on the work weekday versus summer day emissions issue, we realize that the preamble language indicated that no changes would be made to the summer day emissions definition contained in the CERR (beyond the proposal to restrict the requirement to ozone nonattainment and NO_x SIP Call areas), but the proposed AERR regulatory language made additional changes to the definition of “summer day emissions” since the CERR required “work weekday emissions” for point sources and “summer work weekday emissions” for nonpoint, nonroad mobile and onroad mobile sources.

Accordingly, in recognition of the conflicting language and as indicated in the preamble to the proposed rule, the final rule will retain the definition of and requirement to report “summer day emissions” for all sources revised only to the extent that it will restrict the requirement to ozone nonattainment areas (including sources in counties that are covered by the modeling domain used to demonstrate RFP) and NO_x SIP Call areas. In addition, the definition for summer day emissions has been revised to require the use of work weekday emissions (as required under the CERR) when estimating summer day emissions for reporting.

G. Reporting Winter Work Weekday Emissions

We proposed to delete the existing requirement that all states report emissions for a winter work weekday. This requirement was originally aimed at tracking progress towards attainment of the CO NAAQS. We stated our belief that applying this requirement to all states was no longer warranted given that CO violations are currently observed in few areas and indicated that we would work directly with the few remaining affected states to monitor efforts to attain the CO NAAQS without requiring formal submission of CO inventories.

Most commenters supported EPA’s proposal to delete the reporting requirement for winter work weekday emissions of CO. However, one commenter opposed EPA’s proposal to eliminate the existing reporting requirement. The commenter thought that the requirement should be retained for states that are required to submit

emission inventory data as part of their CO maintenance plans.

The EPA finds the comment that CO reporting is needed for CO maintenance plans to be compelling. This need was not considered in the proposed rule. As noted by the commenter, CO maintenance plans require tracking of emission reductions to ensure continued maintenance of the CO NAAQS. Reporting emissions under this rule will aid in standardizing the data reported and facilitate review of the data by interested parties.

A concern not raised by commenters but brought to EPA's attention since the proposed rule was published relates to requests from states to discontinue monitoring of ambient CO concentrations in certain areas that have been redesignated to attainment for CO. The EPA's approval of such requests is conditioned on the expectation that emissions will not increase and areas will continue to maintain the CO NAAQS. To provide a means of ensuring that the CO NAAQS are maintained in areas that no longer have ambient CO monitors, emissions reporting becomes even more critical.

The proposed rule indicated that EPA could work on a case-by-case basis with the few remaining CO nonattainment areas regarding reporting of winter work weekday emissions. However, in this final rule, EPA has determined that for those areas in which EPA determines that reporting is still needed, reporting emissions under this rule will ensure that CO emissions are reported periodically and that the data are in a standardized format that will facilitate data review and thus help ensure attainment and maintenance of the CO NAAQS. Therefore, to monitor progress toward attaining and maintaining the CO NAAQS, EPA will retain the requirement for reporting winter work weekday emissions of CO, but will limit it to CO nonattainment areas and areas with CO maintenance plans.

H. New Data Elements

We proposed to add several required data elements to the existing rule. These were contact name, contact phone number, emission release point type, control status, emission type, and method accuracy description (MAD) codes.

The contact name and phone number are for the lead contact in the organization submitting the data and are needed to ensure that EPA knows who to contact if issues arise with a data submission.

The emission release point type is a code for the physical configuration of the emission release point (e.g., vertical

stack, fugitive, etc.). It is needed to correctly model how emissions are released into the atmosphere.

The control status is a code that represents whether reported emissions are controlled or uncontrolled. It is needed to project future emissions correctly and to evaluate the impact of emission control programs correctly. We also invited comment on whether, with this addition, the current data elements that describe emissions control equipment type and efficiency were adequate. We indicated our belief that it is important for states to report on the manner in which emissions from sources are currently controlled so that opportunities for control strategy and regulatory development could be assessed. We questioned whether the existing data elements were adequate and appropriate for that purpose. The existing data elements related to control measures are primary control efficiency, secondary control efficiency, control device type, and rule effectiveness for point sources; and total capture/control efficiency, rule effectiveness, and rule penetration for nonpoint sources and nonroad mobile sources.⁵

The emission type is a code describing the temporal period of emissions reported (e.g., annual, day, etc.). It is needed to ensure that emissions estimates are used properly.

The MAD codes provide information about geographic coordinates, including the collection method, accuracy, and other descriptors. We proposed to add MAD codes to this rule because EPA's Latitude/Longitude Data Standard⁶ requires their collection when latitude and longitude are collected. The MAD codes are horizontal collection method code, horizontal accuracy measure, horizontal reference datum code, reference point code, source map scale number, and coordinate data source code. The EPA believed that many states would be able to report these codes based on existing information. However, in the event that the information needed to report these codes was not available, states would not be required to do additional work since there is a "don't know" code.

While several commenters supported EPA's proposal to add new data elements to this rule, a number of other

commenters appeared to be confused by EPA's proposal since the NEI Input Format (NIF) included many of the new data elements, and they were already reporting the data to EPA. These commenters believed that adding the new data elements to this rule was not necessary and that the proper place for such detailed information was in the NIF data reporting format or in guidance documents. Two commenters in this group suggested that a Federal-state task force be established to review, revise, finalize, and implement changes in code details.

The EPA believes that both data reporting rules and data reporting formats, such as the NIF, are needed for effective data reporting. Although this rule and NIF address many common data elements for reporting to EPA, their purposes are somewhat different. Data reporting rules identify data elements and timelines for reporting. Data reporting formats such as the NIF address the details of how the data are to be reported to facilitate handling of the data by EPA.

The EPA does not believe that using a data formatting protocol such as the NIF is an effective way to communicate data needs with state agencies. The EPA has codified data reporting requirements since states need to understand what data will be required and when it will be required by EPA to implement programs under the Clean Air Act. The EPA continues to believe that data elements for reporting and timelines for submitting data are fundamental requirements for states and therefore are appropriate levels of detail to be addressed through the rulemaking process.

One commenter suggested that a Federal-state task force be established to review, revise, finalize, and implement changes in code details. Such a task force has since been established to help with developing the new EIS. The EPA expects the task force to update tools and guidance materials for data reporting, as well as periodically review data elements and reporting codes for use by state agencies.

Two commenters thought that the addition of a control status code would not make the status of a facility any more clear and believed that the control status of a facility could be determined from other data elements already required for reporting under the CERR and proposed under the AERR (e.g., control device codes and control efficiency).

One of the commenters pointed out that EPA's detailed reporting instructions provide for the "control device" data element to specify

⁵ Additional information on emissions data elements and the formats and valid codes presently in use for State reporting to EPA is available on the EPA Web site <http://www.epa.gov/ttn/chief/nif/index.html>.

⁶ Environmental Data Registry: Latitude/Longitude Standard. 2000. U.S. EPA. December 11, 2000. http://oaspub.epa.gov/edr/edr_proc_qry.navigate?P_LIST_OPTION_CD=CSDIS&P_REG_AUTH_IDENTIFIER=1&P_DATA_IDENTIFIER=19939&P_VERSION=2.

nonphysical equipment control techniques such as “low solvent coatings,” “water-borne coatings,” “process change,” and several varieties of combustion modifications.

The EPA notes that “control status” was the only new data element in the proposal that was not already in the NIF Version 3.0 and thus was perceived as a new data reporting requirement by several commenters. This new data element would require states to indicate if a source is controlled or uncontrolled. The EPA agrees with the concerns expressed by the commenters that this new data element is not needed. The data reporting requirements proposed under this action for control types and efficiencies in combination with reporting codes for those data elements will be sufficient to discern whether or not sources are uncontrolled or controlled and to what extent. Therefore, EPA has decided to not include Control Status as a new data element in this action.

One commenter stated that the current data fields for point sources do not ask for the total capture/control efficiency, which is required for nonpoint sources. The commenter thought that the capture efficiency along with the total capture/control efficiency should be required for point sources since the current requirements for primary and secondary control efficiencies do not provide a way to determine the overall control efficiency. The EPA believes that the “total capture and control efficiency” data element proposed for point source reporting addresses the commenter’s concern since this data element is intended to require data reporting on the overall effects of multiple control systems.

One commenter did not believe that “Rule Effectiveness” had ever been explained adequately and stated that it was not apparent how or if it could be used without knowledge of how it relates to the other terms. The EPA disagrees with the commenter’s concerns. In the spring of 2004, EPA convened a workgroup consisting of emission inventory staff from state, local, and EPA offices to review existing rule effectiveness (RE) guidance and develop a consensus recommendation for improvements to this guidance. The revised RE guidance developed by the workgroup is found in Appendix B of the document titled *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations*—EPA-454/R-05-001 (August 2005, updated November 2005). The EPA believes the workgroup

presented a clear rationale regarding development and implementation of the new approach to adjusting emission inventories to address RE, explaining how RE can be used to adjust the control efficiency, from what could be realized under ideal conditions to what is actually emitted in practice due to less than ideal conditions. Accordingly, EPA has expanded the regulatory definition of RE to explain how it is used in making these adjustments.

Several commenters were generally opposed to any additional reporting requirements for states that would be passed on to businesses but offered no specific concerns with the individual requirements. The reporting requirements of this rule will apply to states and not to sources. However, we recognize that in some cases, states will need to modify their data reporting rules to meet the requirements of this rule for data elements to be reported and the new timelines for reporting. The EPA notes that the burden estimate from the proposed rule’s Supporting Statement for the Information Collection Request (ICR) indicates the AERR will not increase the reporting burden on states or impose an additional burden on sources.

I. Identification of New Emissions Related Data Requirements

We invited comment on whether or not additional emissions related data should be required. Several commenters encouraged EPA to include specific requirements in this rule for reporting hazardous air pollutants (HAPs) emissions data for Title V facilities. One commenter encouraged EPA to include requirements for reporting HAPs from all emission sources.

The EPA is not including requirements for reporting HAPs in this rule. However, EPA has developed national level inventories of HAP emissions on a 3-year cycle since 1990. These inventories have provided support for development of HAP control programs, helped assess HAP air quality trends, and provided a means to track EPA’s progress on controlling HAP emissions under the Government Performance Results Act. The success of EPA’s efforts rests in large measure on the cooperation of states in submitting HAP data to EPA to support the development of national HAP emission inventories. Each emission inventory cycle has benefited from increased state agency participation in submitting HAP data. The EPA believes it will be possible to continue developing and improving national level HAP inventories using the cooperative approach employed to date but intends

to closely monitor the participation of state agencies in this effort. The EPA understands the concerns of some state agencies regarding the need for a HAP data reporting rule and may, should the need arise, revisit this issue in the future.

J. Revisions to Specific Data Elements

The NO_x SIP Call rule and the CERR contain detailed lists of required data elements in addition to emissions, and each rule has its own set of definitions. The two sets of data elements overlap but are not identical. The NO_x SIP Call rule requires a few more data elements to be reported and defines some data elements differently than the CERR. The EPA reviewed both lists in light of more recent reporting experiences and EPA’s insight into the difficulty states face in collecting and submitting these data elements and their utility to EPA, other states, and other users. We proposed to combine the separate lists of required elements for the NO_x SIP Call and the CERR into a single new list in this rule. The EPA proposed that the following data elements from the NO_x SIP Call be eliminated: “Area Designation”, “Federal ID code (plant)”, “Federal ID code (point)”, “Federal ID code (process)”, “Federal ID code (stack number)”, “Maximum design rate”, “Work weekday emissions”, “Secondary control efficiency”, “Source of fuel heat content data”, “Source of activity/throughput data”, “Source of emission factor,” and “Source of emissions data”. We proposed that these relatively minor changes become applicable starting with the first required emissions reports following promulgation of this rule.

There were a number of data elements required in the proposed amendments on which we invited comment as to whether they should be dropped in the final amendments based upon their current usefulness and sufficiency. These were heat content (fuel), ash content (fuel), sulfur content (fuel) for fuels other than coal, activity/throughput, hours per day in operation, days per week in operation, weeks per year in operation, and start time in the day. These data elements were carried forward from emissions reporting systems previously used by EPA.

At present, states are required to report three particular data elements for point source stacks: stack diameter, exit gas velocity, and exit gas flow rate. The requirement to report all three elements is redundant since any one of these can be calculated from the other two. We invited comment on which of these data elements, if any, to drop from the required list. Our preference was to

collect the data element that was most closely tied to an actual operating measurement. Alternatively, we proposed to allow states to report either exit gas flow or exit gas velocity, at their option.

Finally, we proposed to modify 40 CFR part 51.35 to allow states that obtained one-third of their necessary emissions estimates from point sources and/or prepared one-third of their nonpoint or mobile source emissions estimates each year on a rolling basis, to submit their data as a single package on the required every third year submission date. The existing requirement allows states to report these partial emissions estimates annually as they are completed. Our proposal required that states accumulate all 3 years of work and then make a single data submission by the due date for the triennial emission inventory year. The EPA believes that a single submission would allow states to correct and/or update data prior to submitting it to EPA thereby facilitating a more consistent data set. A single submission would also make it more efficient for EPA to quality assure the complete data set rather than doing it on a piecemeal basis. There would also be increased efficiencies in resolving any identified discrepancies with the states.

Most commenters agreed with EPA's proposal to combine the separate lists of required data elements for the CERR and the NO_x SIP Call into a single new list of required data elements, thus eliminating several requirements from the NO_x SIP Call: area designation, Federal ID code (plant), Federal ID code (point), Federal ID code (process), maximum design rate, work weekday emissions, secondary control efficiency, source of fuel heat content data, source of activity/throughput data, source of emission factor, and source of emissions data. Several commenters suggested that the list of data elements be maintained in the NIF rather than in this rule to allow for changes in required data elements without the need for rulemaking.

The EPA agrees with the commenters who expressed support for the proposed deletion of some data elements related to the NO_x SIP Call. The data elements for Federal ID Codes (Plant, Point, Process, and Stack Number) were assigned to sources subject to the NO_x SIP Call and perform similar ID functions to the data elements in the proposed rule for Facility ID code, Unit ID code, Process ID code, and Stack ID code. The NO_x SIP Call ID codes are redundant with other ID codes in the proposed rule and will be deleted.

The source of fuel heat content data, source of activity/throughput data, source of emission factor and source of emissions data are not used by EPA and no commenters addressed the need for these data elements specifically. Therefore, EPA will delete these data reporting requirements as proposed. The EPA notes that a code for "emission calculation method code" is planned for the EIS, which is similar in application to the "source of emission factor" data element. The "emission calculation method code" will allow users to indicate calculation methods used for developing emission estimates, including emission factors, for all inventory sectors.

Many commenters indicated that the following data elements proposed for deletion were used for a variety of applications and should be retained: Heat content (fuel), ash content (fuel), sulfur content (fuel) for fuels other than coal, activity/throughput, hours per day in operation, days per week in operation, weeks per year in operation and start time in the day). One commenter supported deleting only the data element for ash content (fuel), while several commenters thought that the data element for start time should be deleted. Only one commenter thought that all the data elements that had been carried forward from earlier systems should be deleted.

The EPA agrees with the majority of commenters that data elements for heat content (fuel), ash content (fuel), sulfur content (fuel) for fuels other than coal, activity/throughput, hours per day in operation, days per week in operation, weeks per year in operation should be retained since these elements are used for a variety of applications. Start time in the day (hour) was identified by three commenters as not being useful, and EPA agrees that this data element should be deleted.

Several commenters indicated that any one of the data elements for point source stacks could be deleted while others specifically asked for deletion of the exit gas velocity data element. One commenter indicated their state collected stack diameter and exit gas velocity data and thought that both should be retained.

Many other commenters requested that all three data elements be retained for a variety of reasons including providing a means to make sure that data were in agreement and to check data entry errors. One commenter indicated that his state would continue to meet the needs of their end users who are accustomed to having all three data elements reported and requested that EPA handle any data reporting changes

as software modifications until states could extract only the data that EPA requests.

One commenter thought that allowing states the option of selecting which two stack parameters to report among flow rate, velocity and diameter would require having all three available for use and suggested that no changes be made to the existing reporting format.

Although the stack diameter can be calculated by dividing the gas flow rate by the gas velocity, no commenters suggested deleting the stack diameter from the list of data elements. The EPA believes it is appropriate to report stack diameter data since it can be readily determined and has the least amount of uncertainty of the stack-related data elements. One commenter who indicated that all existing stack-related data elements would need to be reported if states had the flexibility of selecting two out of the three for reporting appeared to interpret EPA's proposal in the broadest sense. It was EPA's intent to select stack-related data elements based upon state preferences and apply those requirements universally to all point sources.

The EPA believes that given the variety of practices among state agencies evidenced in the comments, flexibility in reporting should be included in this rule for stack-related data elements. Therefore, this rule will offer states three reporting options: (1) Report all three data elements, (2) report only stack diameter and exit gas flow rate, or (3) report only stack diameter and exit gas velocity.

Section 51.35 of the CERR allows states the option of obtaining estimates from point sources and/or preparing one-third of their nonpoint or mobile source emissions estimates each year on a rolling basis and submitting data annually as they are completed. The EPA proposed to allow states to continue the option of obtaining estimates from point sources and/or prepare one-third of their nonpoint or mobile source emissions estimates each year on a rolling basis, but would have limited data submissions to a single package on the required third year submission date.

One commenter expressed support for the proposed requirement that states submit their data as a single package for triennial inventories since his state followed this practice. Another commenter said his state agency had always developed a single year's inventory and submitted it as a single package. This commenter preferred to continue this practice. One commenter thought that allowing states to develop triennial inventories over 3 years was

not practical due to staff turnover and EPA's changing requirements. The commenter went on to suggest that a 5-year rolling basis be used to be consistent with the cycle his state uses for smaller sources.

Aside from the comment noted above, this proposal did not generate much interest. The few comments received suggest that the existing provision under Section 51.35 of the CERR, which allows triennial emission inventory development over a three-year period, is impractical and is not utilized by the states. However, all commenters were supportive of the change to require one submission for triennial inventories. The EPA agrees with the commenters that the change to require one submission under section 51.35 is appropriate and is modifying this provision as proposed. The EPA notes that states may use the provisions of 40 CFR 51.35 to equalize workloads but are not required to do so.

The CERR included a data element for reporting of SIC/NAICS codes for point sources but did not specify whether the codes should also be reported at the emission unit level, in addition to the facility level. Table 2A to subpart A of part 51 in the AERR proposal clarified this requirement by including data element #41 for reporting of "SIC/NAICS at the facility and unit levels."

One commenter thought that reporting these codes at the unit level is not necessary for emission inventory purposes. Guidance from the Census Bureau, which develops the SIC/NAICS codes, indicates that they are designed to reflect the primary economic activity of a source, which also brings into question the reporting of these codes at the unit level. Based upon this information, EPA has reconsidered the need for reporting these codes at the unit level and revised data element #41 to require the reporting of "SIC/NAICS at the facility level." One additional revision concerns the reporting of SIC codes as an alternative to NAICS codes. Since the January 3, 2006, proposal, users of SIC codes have transitioned to the new NAICS codes, and EPA finds that retaining the reference to "SIC" as a reporting alternative is no longer necessary. Therefore, data element #41 has been revised to require the reporting of "NAICS at the facility level" and the definition for "SIC/NAICS" has been revised to address only NAICS codes.

IV. This Action

Today's action further consolidates the detailed requirements for emissions reporting by states entirely into 40 CFR part 51 subpart A. This final rule also harmonizes the reporting requirements

from several CAA rules and reduces and simplifies them in several ways. The major changes included in this final rule are described below.

A. Consolidation of Reporting Requirements

The EPA hereby amends subpart A, which contains 40 CFR 51.1 through 51.45, with conforming amendments to 40 CFR 51.122. These amendments also add 40 CFR 51.50 and new tables to subpart A of part 51.

In 40 CFR 51.122, we are abolishing some requirements entirely and replacing other requirements with a cross reference to subpart A, thus allowing detailed lists of required data elements to appear only in subpart A. As amended, 40 CFR 51.122 will continue to specify what pollutants, sources, and time periods the states subject to the NO_x SIP Call must report and when, but will no longer list the detailed data elements required for those reports. The amended subpart A will list the detailed data elements as well as provide information on submittal procedures, definitions, and other generally applicable provisions.

B. Point Source Reporting

In all states, we are expanding the definition of what sources must be reported in point source format, so that fewer sources will be included in nonpoint source emissions. We are basing the requirement for point source format reporting on whether the source is a major source under 40 CFR part 70 for the pollutants for which reporting is required, *i.e.*, for CO, VOC, NO_x, SO₂, PM_{2.5}, PM₁₀, lead and NH₃ but without regard to emissions of HAPs. Currently, the requirement for point source reporting is based on thresholds of actual emissions during the inventory year. While it has always been an option for states to include all such sources, and we know that some states already do, expanding the point source definition may require more sources to be reported as point sources every third year. In addition, some sources now reported as "Type B" point sources every third year may be reported as "Type A" point sources each year. Affected states will continue to report their actual emissions, but the new approach will make it possible to better track changes in source emissions, shutdowns, and start-ups over time. Because states have an existing list of sources based on 40 CFR part 70 requirements, this approach will result in a more stable universe of reporting point sources, which in turn will facilitate elimination of overlaps and gaps in estimating point source

emissions, as compared to nonpoint source emissions. Under this requirement, states will know well in advance of the start of the inventory year which sources will need to be reported. These new requirements will be in effect for all reports for emissions starting with the 2009 inventory year.

C. Report Due Dates

New due dates under the AERR will begin with the 2009 inventory year. For the 2008 inventory year, data submittals under the CERR will continue to be due within 17 months of the end of the inventory year (May 31, 2010). The NO_x SIP Call data submittal for the 2008 inventory year will be due within 12 months of the end of the inventory year (December 31, 2009).

The EPA is harmonizing reporting dates for the NO_x SIP Call and the AERR beginning with the 2009 inventory year. The data submittals for both will be due by December 31, 2010. All subsequent data submittals under the AERR and NO_x SIP Call will be due within 12 months of the end of the inventory year.

D. Reporting Biogenic Emissions

The requirement for reporting annual and typical ozone season day biogenic emissions has been removed.

E. Reporting Emission Model Inputs

States will have the option of providing emissions model inputs to EPA in lieu of emissions estimates developed from those inputs. This option is available only for source categories where EPA develops or adopts suitable emission inventory estimation models and through guidance, defines their necessary inputs prior to the reporting due date. It is further restricted to emission models capable of estimating emissions from source types on a national scale. Under this option, EPA will run the emissions model(s) to calculate emissions and will enter the emissions data into the appropriate database. The EPA is making this option available for the 2007 inventory year (due date May 31, 2009).

F. Reporting Summer Day Emissions

States will report summer day emissions of VOC and NO_x from point, nonpoint and nonroad mobile, and onroad mobile sources at 3-year intervals for ozone nonattainment areas and for sources in attainment counties that are covered by the nonattainment area modeling domain used to demonstrate RFP. States covered by the NO_x SIP Call will report on an annual basis summer day emissions of NO_x

from any point source for which the state specified control measures in its SIP, and on a triennial basis summer day emissions for all point, nonpoint and nonroad mobile and onroad mobile sources.

G. Reporting Winter Work Weekday Emissions

The requirement for states to report winter work weekday emissions of CO is limited to areas with CO maintenance plans and CO nonattainment areas.

H. New Data Elements

New data elements for contact name, contact phone number, emission type, emission release point type, and MAD codes are now required for reporting point source emissions. New data elements for contact name and contact phone number are now required for reporting nonpoint, nonroad mobile and onroad mobile source emissions.

I. Identification of New Emissions Related Data Requirements

There are no new emissions related data requirements other than those discussed in Section IV.H. above that will be required for reporting point, nonpoint, or nonroad and onroad mobile sources.

J. Revisions to Specific Data Elements

States will no longer be required to report the following data elements listed under the NO_x SIP Call (40 CFR 51.122): Area Designation, Federal ID Code (plant), Federal ID Code (point), Federal ID Code (process), Federal ID Code (stack number), Maximum design rate, Work weekday emissions, Secondary control efficiency, Source of fuel heat content data, Source of activity/throughput data, Source of emissions factor and Source of emissions data. States will report their ID codes for facility, unit, process and stack. The EPA will assign EIS Identifier codes to state data once the data are added to the NEI.

For point source emissions, states will no longer be required to report start time in the day and will have the option of reporting one of the following combinations: (1) Stack height, exit gas velocity and exit gas flow rate; (2) Stack height and exit gas velocity; or (3) Stack height and exit gas flow rate.

K. EPA Initiated Changes

1. Implementation of Data Reporting Under the AERR

In the preamble to the proposed rule we said "The EPA intends to issue final amendments during 2006." We intended to have the final rule in place with sufficient lead time for state

agencies to modify their data collection rules and data systems as necessary to meet the new reporting requirements. Promulgation of this action is expected to occur during 2008 which was the initial year of data reporting proposed under the AERR. The EPA recognizes that the reduced lead time may present difficulties for some states to fully comply with the requirements of this rule and is delaying full implementation of the AERR until the 2009 inventory year. A provision to allow states to submit emission model inputs in lieu of emission estimates will be effective starting with the 2007 inventory year because it provides additional flexibility to the states. EPA notes that the 17-month timeline for submittal of data under the CERR is unchanged in this rule for the 2008 inventory year, which should aid in transitioning to the new reporting requirements.

2. Early Data Submittal Program

The EPA proposed a 12-month timeline for reporting 2008 point source emission inventory data and 17 months for nonpoint and mobile source emission inventory data. The EPA further proposed that this schedule would be shortened to 6 months for point sources and 12 months for nonpoint and mobile source sectors starting with the 2011 inventory year. Commenters believed these proposed timelines were too ambitious, and this action delays implementation of the new reporting timeline until the 2009 inventory year. The existing 17-month timeline from the CERR for reporting of all emission inventory sectors will be in effect through the 2008 inventory year. The reporting timeline for the 2009 inventory year and subsequent inventory years will be shortened to 12 months for all emission inventory sectors.

The EPA believes it may be possible for some states to achieve data submittal timelines that are shorter than 17 months for the 2008 inventory year and is interested in providing a mechanism for early data submittal from such states. The EPA is considering development of a voluntary program that will provide several alternatives for states. The details of this program will be communicated by EPA to states through discussions with the National Association of Clean Air Agencies (NACAA), messages to the CHIEF and NEI listservs, and postings on the CHIEF Web site.

3. Data Element for Inventory Type

The data element for Inventory Type describes the type of data submitted and its application. The EPA believes this

data element is not necessary and has deleted it from Tables 2A, 2B and 2C for reporting emissions from point sources; nonpoint sources and nonroad mobile sources; and onroad mobile sources. The EPA is taking this action for the following reasons: (1) Several of the emission inventory applications described by the codes are not expected to be submitted to EPA under this rule, (2) data submittals described by this data element such as "HAP inventory" are no longer appropriate given the integrated nature of emission inventory development, and (3) data submitters can better describe data being submitted using a comment field which is provided in the Transmittal Record under the NIF and XML schemas for data formatting.

4. Data Element for "SCC or PCC"

The EPA is modifying data element #14 in Table 2A to subpart A of part 51 by eliminating the reference to PCC. The PCC (Process Classification Code) reference was included in the proposed rule to provide data reporting flexibility in the event that PCCs were developed as replacement codes for SCCs. The reference has been removed from this final rule because EPA has no plans for further development of PCCs at this time.

5. Source Reporting Formats

Section 51.20 (What are the emission thresholds that separate point and nonpoint sources?) requires that state inventories include all anthropogenic stationary sources as either point or nonpoint sources.⁷ As proposed, this section would have specifically required states under § 51.20(d) to submit emission data on wildfires and prescribed fires using the nonpoint source format. Section 51.20(d) also required all sources not subject to the point source reporting thresholds be submitted using the nonpoint source reporting format. However, in consideration of the time and effort already expended to develop mechanisms for reporting such emissions as point sources, we have revised the language under § 51.20(d) to remove the requirement for reporting of wildfires and prescribed fires using the nonpoint reporting format and further revised the language to allow states the flexibility of reporting such emissions as either point or nonpoint sources, by providing a mechanism for states to use the point source reporting format for

⁷ Examples of anthropogenic sources include, but are not limited to, (1) agricultural fires such as burning of orchard and field crops and (2) some emissions from livestock operations and fertilizer application.

sources that are below the point source reporting thresholds referenced in Sections 51.20(c) and (d).⁸

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action” because it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in “Supporting Statement, Air Emissions Reporting Requirements (AERR), EPA ICR #2170.02.” A copy of the analysis is available in the docket for this action and the analysis is briefly summarized here.

This final rule will add new reporting requirements and will combine these new requirements with existing requirements from the CERR, NO_x SIP Call, and the Acid Rain Program. Each of these three existing rules has an approved ICR. The current ICRs are: ICR No. 0916.10 for the CERR; ICR No. 1857 for the NO_x SIP Call; and ICR No. 1633.13 for the Acid Rain Program.

The EPA estimates that this final rule will reduce the information collection burden for each of the 104 respondents (state and local agencies) by about 13 labor hours per year from current levels. The annual average reporting burden for this collection (averaged over the first 3 years of this ICR) is estimated to decrease by a total of 1,373 labor hours per year with a decrease in costs of \$47,450. From the perspective of the sources reporting to the states, EPA does not believe that there will be any change in reporting burden resulting from AERR because the same universe of sources will be required to report to the states.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of

Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information collection requirements in this rule are based on the existing Emission Inventory Reporting Requirements in 40 CFR part 51, subparts A and G. In general, these provisions require each state to compile a statewide inventory of emissions of certain criteria pollutants at least every 3 years for all point, nonpoint, and mobile sources. The information collection requirements for the existing inventory reporting requirements have been approved by OMB under control number 2060–0088.

The information collection requirements in this final rule are mandatory for all states and territories (excluding Tribal governments without TAS status to implement and enforce the AERR rule). These requirements are authorized by section 110(a) of the CAA. The reported emissions data are used by EPA to develop and evaluate state, regional, and national control strategies; to assess and analyze trends in criteria pollutant emissions; to identify emission and control technology research priorities; and to assess the impact of new or modified sources within a geographic area. The emission inventory data are also used by states to develop, evaluate, and revise their SIP.

This final rule will add new reporting requirements and will combine these new requirements with existing requirements from the CERR, NO_x SIP Call, and the Acid Rain Program. Each of these three existing rules has an approved ICR. The current ICRs are approved under OMB Control Numbers 2060–0088 (CERR), 2060–0445 (NO_x SIP Call), and 2060–0258 (Acid Rain Program).

The EPA estimates that this final rule will reduce the information collection burden for each of the 104 respondents by about 13 labor hours per year from current levels. The annual average reporting burden for this collection (averaged over the first 3 years of this ICR) is estimated to decrease by a total of 1,373 labor hours per year with a decrease in costs of \$47,450. From the perspective of the sources reporting to the states, EPA does not believe that there will be any change in reporting burden resulting from AERR because the same universe of sources will be required to report to the states. No capital/startup costs or operation and maintenance costs for monitoring equipment are attributable to the proposed amendments. The only costs associated with this final rule are labor

hours associated with collection, management, and reporting of data. The EPA does not consider the data submitted under this rule to be confidential, but some states limit release of this type of data. Any data submitted under this rule will be considered in the public domain and cannot be treated as confidential. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in 40 CFR part 51 are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration regulations at 13 CFR 121.201; (2) a small government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. This action primarily impacts state and local agencies, and will provide these agencies with additional flexibility in how they collect and report emissions data.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures

⁸ EPA is developing a Fire Policy with the Department of Agriculture that will clarify terminology used in this notice regarding wildland and agricultural fires. Once that policy is finalized, EPA intends to update reporting codes to facilitate State reporting of emissions in accordance with the final policy.

of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. No significant costs are attributable to this final rule; in fact, this rule is estimated to decrease costs associated with emissions inventory reporting. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The rule does not significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them.

E. Executive Order 13132: Federalism

Executive Order 13132 entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule will provide states with additional flexibility in how they collect and report emissions data. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and

responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. The Tribal Authority Rule means that tribes cannot be required to report their emissions to us, unless they have attained TAS status under the Tribal Authority Rule and, on that basis, are authorized to implement and enforce this rule. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule will consolidate, reduce, and simplify existing emissions data reporting requirements; add limited new requirements; provide additional flexibility to States in the ways they collect and report emissions data; and accelerate the reporting of emissions data to EPA. Data reporting will be conducted electronically and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy impacts.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer Advancement Act of 1995 ("NTTAA") (Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule establishes information reporting procedures for emissions of criteria air pollutants from stationary and mobile source but does not affect the quantities of the pollutants emitted.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective December 17, 2008.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: December 4, 2008.

Stephen L. Johnson,
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 51 of the Code of Federal Regulations is amended as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

■ 2. Subpart A is revised to read as follows:

Subpart A—Air Emissions Reporting Requirements

Sec.

General Information For Inventory Preparers

- 51.1 Who is responsible for actions described in this subpart?
- 51.5 What tools are available to help prepare and report emissions data?
- 51.10 How does my state report emissions that are required by the NO_x SIP Call?

Specific Reporting Requirements

- 51.15 What data does my state need to report to EPA?
- 51.20 What are the emission thresholds that separate point and nonpoint sources?
- 51.25 What geographic area must my state's inventory cover?
- 51.30 When does my state report which emissions data to EPA?
- 51.35 How can my state equalize the emission inventory effort from year to year?
- 51.40 In what form and format should my state report the data to EPA?

- 51.45 Where should my state report the data?
- 51.50 What definitions apply to this subpart?

Appendix A to Subpart A of Part 51—Tables

Appendix B to Subpart A of Part 51—[Reserved]

Subpart A—Air Emissions Reporting Requirements

General Information for Inventory Preparers

§ 51.1 Who is responsible for actions described in this subpart?

States must inventory emission sources located on nontribal lands and report this information to EPA.

§ 51.5 What tools are available to help prepare and report emissions data?

(a) We urge your state to use estimation procedures described in documents from the Emission Inventory Improvement Program (EIIP), available at the following Internet address: <http://www.epa.gov/ttn/chief/eiip>. These procedures are standardized and ranked according to relative uncertainty for each emission estimating technique. Using this guidance will enable others to use your state's data and evaluate its quality and consistency with other data.

(b) Where current EIIP guidance materials have been supplanted by state-of-the-art emission estimation approaches or are not applicable to sources or source categories, states are urged to use applicable, state-of-the-art techniques for estimating emissions.

§ 51.10 How does my state report emissions that are required by the NO_x SIP Call?

The District of Columbia and states that are subject to the NO_x SIP Call § 51.121) are subject to the emissions reporting provisions of § 51.122. This subpart A incorporates the pollutants, source, time periods, and required data elements for these reporting requirements.

Specific Reporting Requirements

§ 51.15 What data does my state need to report to EPA?

(a) *Pollutants*. Report actual emissions of the following (see § 51.50 for precise definitions as required):

- (1) Required pollutants for triennial reports of annual (12-month) emissions for all sources and every-year reports of annual emissions from Type A sources:
 - (i) Sulfur dioxide (SO₂).
 - (ii) Volatile organic compounds (VOC).
 - (iii) Nitrogen oxides (NO_x).
 - (iv) Carbon monoxide (CO).
 - (v) Lead and lead compounds.

(vi) Primary PM_{2.5}. As applicable, also report filterable and condensable components.

(vii) Primary PM₁₀. As applicable, also report filterable and condensable components.

(viii) Ammonia (NH₃).

(2) Required pollutants for all reports of ozone season (5 months) emissions: NO_x.

(3) Required pollutants for triennial reports of summer day emissions:

(i) NO_x.

(ii) VOC.

(4) Required pollutants for every-year reports of summer day emissions: NO_x.

(5) A state may, at its option, include estimates of emissions for additional pollutants (such as other pollutants listed in paragraph (a)(1) of this section or hazardous air pollutants) in its emission inventory reports.

(b) *Sources*. Emissions should be reported from the following sources in all parts of the state, excluding sources located on tribal lands:

(1) Point.

(2) Nonpoint.

(3) Onroad mobile.

(4) Nonroad mobile.

(c) *Supporting Information*. You must report the data elements in Tables 2a through 2c in Appendix A of this subpart. We may ask you for other data on a voluntary basis to meet special purposes.

(d) *Confidential Data*. We do not consider the data in Tables 2a through 2c in Appendix A of this subpart confidential, but some states limit release of this type of data. Any data that you submit to EPA under this subpart will be considered in the public domain and cannot be treated as confidential. If Federal and state requirements are inconsistent, consult your EPA Regional Office for a final reconciliation.

(e) *Option to Submit Inputs to Emission Inventory Estimation Models in Lieu of Emission Estimates*. For a given inventory year, EPA may allow states to submit comprehensive input values for models capable of estimating emissions from a certain source type on a national scale, in lieu of submitting the emission estimates otherwise required by this subpart.

§ 51.20 What are the emission thresholds that separate point and nonpoint sources?

(a) All anthropogenic stationary sources must be included in your inventory as either point or nonpoint sources.

(b) Sources that meet the definition of point source in this subpart must be reported as point sources. All pollutants specified in § 51.15(a) must be reported

for point sources, not just the pollutant(s) that qualify the source as a point source. The reporting of wildland and agricultural fires is encouraged but not required.

(c) If your state has lower emission reporting thresholds for point sources than paragraph (b) of this section, then you may use these in reporting your emissions to EPA.

(d) All stationary sources that are not reported as point sources must be reported as nonpoint sources. Episodic wind-generated particulate matter (PM) emissions from sources that are not major sources may be excluded, for example dust lifted by high winds from natural or tilled soil. In addition, if not reported as point sources, wildland and agricultural fires must be reported as nonpoint sources. Emissions of nonpoint sources may be aggregated to the county level, but must be separated and identified by source classification code (SCC). Nonpoint source categories or emission events reasonably estimated by the state to represent a de minimis percentage of total county and state emissions of a given pollutant may be omitted.

§ 51.25 What geographic area must my state's inventory cover?

Because of the regional nature of these pollutants, your state's inventory must be statewide, regardless of any area's attainment status.

§ 51.30 When does my state report which emissions data to EPA?

All states are required to report two basic types of emission inventories to EPA: Every-year Cycle Inventory; and Three-year Cycle Inventory. The sources and pollutants to be reported vary among states.

(a) Every-year cycle. See Tables 2a, 2b, and 2c of Appendix A of this subpart for the specific data elements to report every year.

(1) All states are required to report every year the annual (12-month) emissions of all pollutants listed in § 51.15(a)(1) from Type A (large) point sources, as defined in Table 1 of Appendix A of this subpart. The first every-year cycle inventory will be for the 2009 inventory year and must be submitted to EPA within 12 months, *i.e.*, by December 31, 2010.

(2) States subject to the emission reporting requirements of § 51.122 (the NO_x SIP Call) are required to report every year the ozone season emissions of NO_x and summer day emissions of NO_x from any point, nonpoint, onroad mobile, or nonroad mobile source for which the state specified control measures in its SIP submission under

§ 51.121(g). This requirement begins with the inventory year prior to the year in which compliance with the NO_x SIP Call requirements is first required.

(3) In inventory years that fall under the 3-year cycle requirements, the reporting required by the 3-year cycle satisfies the every-year reporting requirements of paragraph (a).

(b) Three-year cycle. See Tables 2a, 2b and 2c to Appendix A of subpart A for the specific data elements that must be reported triennially.

(1) All states are required to report for every third inventory year the annual (12-month) emissions of all pollutants listed in § 51.15(a)(1) from all point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources. The first 3-year cycle inventory will be for the 2011 inventory and must be submitted to us within 12 months, *i.e.*, by December 31, 2012. Subsequent 3-year cycle (2011, 2014, etc.) inventories will be due 12 months after the end of the inventory year, *i.e.*, by December 31 of the following year.

(2) States subject to § 51.122 must report ozone season emissions and summer day emissions of NO_x from all point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources. The first 3-year cycle inventory will be for the 2008 inventory year and must be submitted to EPA within 12 months, *i.e.*, by December 31, 2009. Subsequent 3-year cycle inventories will be due as specified under paragraph (b)(1) of this section.

(3) Any state with an area for which EPA has made an 8-hour ozone nonattainment designation finding (regardless of whether that finding has reached its effective date) must report summer day emissions of VOC and NO_x from all point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources. Summer day emissions of NO_x and VOC for sources in attainment counties that are covered by the nonattainment area modeling domain used to demonstrate reasonable further progress (RFP) must be included. The first 3-year cycle inventory will be for the 2011 inventory year and must be submitted to EPA within 12 months, *i.e.*, by December 31, 2012. Subsequent three-year cycle inventories will be due as specified under paragraph (b)(1) of this section.

(4) States with CO nonattainment areas and states with CO attainment areas subject to maintenance plans must report winter work weekday emissions of CO with their 3-year cycle inventories.

§ 51.35 How can my state equalize the emission inventory effort from year to year?

(a) Compiling a 3-year cycle inventory means more effort every 3 years. As an option, your state may ease this workload spike by using the following approach:

(1) Each year, collect and report data for all Type A (large) point sources (this is required for all Type A point sources).

(2) Each year, collect data for one-third of your sources that are not Type A point sources. Collect data for a different third of these sources each year so that data has been collected for all of the sources that are not Type A point sources by the end of each 3-year cycle. You must save 3 years of data and then report all emissions from the sources that are not Type A point sources on the 3-year cycle due date.

(3) Each year, collect data for one-third of the nonpoint, nonroad mobile, and onroad mobile sources. You must save 3 years of data for each such source and then report all of these data on the 3-year cycle due date.

(b) For the sources described in paragraph (a) of this section, your state will have data from 3 successive years at any given time, rather than from the single year in which it is compiled.

(c) If your state chooses the method of inventorying one-third of your sources that are not Type A point sources and 3-year cycle nonpoint, nonroad mobile, and onroad mobile sources each year, your state must compile each year of the 3-year period identically. For example, if a process has not changed for a source category or individual plant, your state must use the same emission factors to calculate emissions for each year of the 3-year period. If your state has revised emission factors during the 3 years for a process that has not changed, you must resubmit previous years' data using the revised factor. If your state uses models to estimate emissions, you must make sure that the model is the same for all 3 years.

(d) If your state needs a new reference year emission inventory for a selected pollutant, your state cannot use these optional reporting frequencies for the new reference year.

(e) If your state is a NO_x SIP Call state, you cannot use these optional reporting frequencies for NO_x SIP Call reporting.

§ 51.40 In what form and format should my state report the data to EPA?

(a) You must report your emission inventory data to us in electronic form.

(b) We support specific electronic data reporting formats, and you are required to report your data in a format consistent with these. The term format

encompasses the definition of one or more specific data fields for each of the data elements listed in Tables 2a, 2b, and 2c in Appendix A of this subpart; allowed code values for categorical data fields; transmittal information; and data table relational structure. Because electronic reporting technology changes continually, contact the EPA Emission Inventory and Analysis Group (EIAG) for the latest specific formats. You can find information on the current formats at the following Internet address: <http://www.epa.gov/ttn/chief/nif/index.html>. You may also call the air emissions contact in your EPA Regional Office or our Info CHIEF help desk at (919) 541-1000 or send e-mail to info.chief@epa.gov.

§ 51.45 Where should my state report the data?

(a) Your state submits or reports data by providing it directly to EPA.

(b) The latest information on data reporting procedures is available at the following Internet address: <http://www.epa.gov/ttn/chief>. You may also call our Info CHIEF help desk at (919) 541-1000 or e-mail to info.chief@epa.gov.

§ 51.50 What definitions apply to this subpart?

Activity throughput means a measurable factor or parameter that relates directly or indirectly to the emissions of an air pollution source during the period for which emissions are reported. Depending on the type of source category, activity information may refer to the amount of fuel combusted, raw material processed, product manufactured, or material handled or processed. It may also refer to population, employment, or number of units. Activity throughput is typically the value that is multiplied against an emission factor to generate an emissions estimate.

Annual emissions means actual emissions for a plant, point, or process that are measured or calculated to represent a calendar year.

Ash content means inert residual portion of a fuel.

Contact name means the complete name of the lead contact person for the organization transmitting the data set, including first name, middle name or initial, and surname.

Contact phone number means the phone number for the contact name.

Control device type means the name of the type of control device (e.g., wet scrubber, flaring, or process change).

Day/wk in operations means days per week that the emitting process operates, averaged over the inventory period.

Design capacity means a measure of the size of a point source, based on the reported maximum continuous throughput or output capacity of the unit. For a boiler, design capacity is based on the reported maximum continuous steam flow, usually in units of million BTU per hour.

Emission factor means the ratio relating emissions of a specific pollutant to an activity or material throughput level.

Emission release point type means the code for physical configuration of the release point.

Emission type means the code describing temporal designation of emissions reported, i.e., Entire Period, Average Weekday, etc.

Exit gas flow rate means the numeric value of the flow rate of a stack gas.

Exit gas temperature means the numeric value of the temperature of an exit gas stream.

Exit gas velocity means the numeric value of the velocity of an exit gas stream.

Facility ID codes means the unique codes for a plant or facility treated as a point source, containing one or more pollutant-emitting units. The EPA's reporting format for a given inventory year may require several facility ID codes to ensure proper matching between databases, e.g., the state's own current and most recent facility ID codes, the EPA-assigned facility ID codes, and the ORIS (Department of Energy) ID code if applicable.

Fall throughput (percent) means the part of the throughput or activity attributable to the three fall months (September, October, November). This expresses part of the annual activity information based on four seasons—typically spring, summer, fall, and winter. It is a percentage of the annual activity (e.g., out of 600 units produced each year, 150 units are produced in the fall which is 25 percent of the annual activity).

FIPS Code. Federal Information Placement System (FIPS) means the system of unique numeric codes the government developed to identify states, counties and parishes for the entire United States, Puerto Rico, and Guam.

Heat content means the amount of thermal heat energy in a solid, liquid, or gaseous fuel, averaged over the period for which emissions are reported. Fuel heat content is typically expressed in units of Btu/lb of fuel, Btu/gal of fuel, joules/kg of fuel, etc.

Hr/day in operations means the hours per day that the emitting process operates averaged over the inventory period.

Inventory end date means the last day of the inventory period.

Inventory start date means the first day of the inventory period.

Inventory year means the year for which emissions estimates are calculated.

Lead (Pb) means lead as defined in 40 CFR 50.12. Lead should be reported as elemental lead and its compounds.

NAICS means North American Industry Classification System code. The NAICS codes are U.S. Department of Commerce's codes for businesses by products or services and have replaced Standard Industrial Classification codes.

Maximum nameplate capacity means a measure of the size of a generator which is put on the unit's nameplate by the manufacturer. The data element is reported in megawatts or kilowatts.

Method accuracy description (MAD) codes means a set of six codes used to define the accuracy of latitude/longitude data for point sources. The six codes and their definitions are:

(1) *Coordinate Data Source Code*: The code that represents the party responsible for providing the latitude/longitude.

(2) *Horizontal Collection Method Code*: Method used to determine the latitude/longitude coordinates for a point on the earth.

(3) *Horizontal Accuracy Measure*: The measure of accuracy (in meters) of the latitude/longitude coordinates.

(4) *Horizontal Reference Datum Code*: Code that represents the reference datum used to determine the latitude/longitude coordinates.

(5) *Reference Point Code*: The code that represents the place for which geographic coordinates were established. Code value should be 106 (e.g., point where substance is released).

(6) *Source Map Scale Number*: The number that represents the proportional distance on the ground for one unit of measure on the map or photo.

Mobile source means a motor vehicle, nonroad engine or nonroad vehicle, where:

(1) A *motor vehicle* is any self-propelled vehicle used to carry people or property on a street or highway;

(2) A *nonroad engine* is an internal combustion engine (including fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not affected by sections 111 or 202 of the CAA; and

(3) A *nonroad vehicle* is a vehicle that is run by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.

Nitrogen oxides (NO_x) means nitrogen oxides (NO_x) as defined in 40 CFR 60.2 as all oxides of nitrogen except N₂O.

Nitrogen oxides should be reported on an equivalent molecular weight basis as nitrogen dioxide (NO₂).

Nonpoint sources. Nonpoint sources collectively represent individual sources that have not been inventoried as specific point or mobile sources. These individual sources treated collectively as nonpoint sources are typically too small, numerous, or difficult to inventory using the methods for the other classes of sources.

Ozone season means the period from May 1 through September 30 of a year.

Particulate Matter (PM). Particulate matter is a criteria air pollutant. For the purpose of this subpart, the following definitions apply:

(1) **Filterable PM_{2.5} or Filterable PM₁₀:** Particles that are directly emitted by a source as a solid or liquid at stack or release conditions and captured on the filter of a stack test train. Filterable PM_{2.5} is particulate matter with an aerodynamic diameter equal to or less

than 2.5 micrometers. Filterable PM₁₀ is particulate matter with an aerodynamic diameter equal to or less than 10 micrometers.

(2) **Condensable PM:** Material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid PM immediately after discharge from the stack. Note that all condensable PM, if present from a source, is typically in the PM_{2.5} size fraction, and therefore all of it is a component of both primary PM_{2.5} and primary PM₁₀.

(3) **Primary PM_{2.5}:** The sum of filterable PM_{2.5} and condensable PM.

(4) **Primary PM₁₀:** The sum of filterable PM₁₀ and condensable PM.

(5) **Secondary PM:** Particles that form or grow in mass through chemical reactions in the ambient air well after dilution and condensation have occurred. Secondary PM is usually formed at some distance downwind

from the source. Secondary PM should not be reported in the emission inventory and is not covered by this subpart.

Physical address means the street address of a facility. This is the address of the location where the emissions occur; not, for example, the corporate headquarters.

Point source means large, stationary (nonmobile), identifiable sources of emissions that release pollutants into the atmosphere. A point source is a facility that is a major source under 40 CFR part 70 for the pollutants for which reporting is required, except for the emissions of hazardous air pollutants, which are not considered in determining whether a source is a point source under this subpart. The minimum point source reporting thresholds in tons per year of pollutant are as follows, as measured in potential to emit:

Pollutant	Annual cycle (Type A sources)	Three-year cycle	
		Type B sources ¹	NAA sources ²
(1) SO _x	≥2500	≥100	≥100.
(2) VOC	≥250	≥100	O ₃ (moderate) ≥ 100.
(3) VOC .....	.....	.....	O ₃ (serious) ≥ 50.
(4) VOC .....	.....	.....	O ₃ (severe) ≥ 25.
(5) VOC .....	.....	.....	O ₃ (extreme) ≥ 10.
(6) NO _x	≥ 2500	≥ 100	≥ 100.
(7) CO	≥ 2500	≥1000	O ₃ (all areas) ≥ 100.
(8) CO .....	.....	.....	CO (all areas) ≥ 100.
(9) Pb .....	.....	≥ 5	≥ 5.
(10) PM ₁₀	≥ 250	≥ 100	PM ₁₀ (moderate) ≥ 100.
(11) PM ₁₀ .....	.....	.....	PM ₁₀ (serious) ≥ 70.
(12) PM _{2.5}	≥ 250	≥ 100	≥ 100.
(13) NH ₃	≥ 250	≥ 100	≥ 100.

¹ Type A sources are a subset of the Type B sources and are the larger emitting sources by pollutant.

² NAA = Nonattainment Area. Special point source reporting thresholds apply for certain pollutants by type of nonattainment area. The pollutants by nonattainment area are: Ozone: VOC, NO_x, CO; CO: CO; PM₁₀: PM₁₀.

Pollutant code means a unique code for each reported pollutant assigned by the reporting format specified by EPA for each inventory year.

Primary capture and control efficiencies means two values indicating the emissions capture efficiency and the emission reduction efficiency of a primary control device. Capture and control efficiencies are usually expressed as a percentage.

Process ID code means a unique code for the process generating the emissions, typically a description of a process.

Roadway class means a classification system developed by the Federal Highway Administration that defines all public roadways as to type based on land use and physical characteristics of the roadway.

Rule effectiveness (RE) means a rating of how well a regulatory program achieves all possible emissions

reductions. This rating reflects the assumption that controls typically are not 100 percent effective because of equipment downtime, upsets, decreases in control efficiencies, and other deficiencies in emission estimates. Rule effectiveness adjusts the control efficiency from what could be realized under ideal conditions to what is actually emitted in practice due to less than ideal conditions.

Rule penetration means the percentage of a nonpoint source category covered by an applicable regulation.

SCC means source classification code, a process-level code that describes the equipment and/or operation which is emitting pollutants.

Site name means the name of the facility.

Spring throughput (percent) means part of the throughput or activity

attributable to the three Spring months (March, April, May). See also the definition of Fall throughput.

Stack diameter means the inner physical diameter of a stack.

Stack height means physical height of a stack above the surrounding terrain.

Stack ID code means a unique code for the point where emissions from one or more processes release into the atmosphere.

Sulfur content means the sulfur content of a fuel, usually expressed as percent by weight.

Summer day emissions means an average day's emissions for a typical summer work weekday. The state will select the particular month(s) in summer and the day(s) in the work week to be represented. The selection of conditions should be coordinated with the conditions assumed in the development of reasonable further

progress (RFP) plans, rate of progress plans and demonstrations, and/or emissions budgets for transportation conformity, to allow comparability of daily emission estimates.

Summer throughput (percent) means the part of throughput or activity attributable to the three Summer months (June, July, August). See also the definition of Fall throughput.

Total capture and control efficiency (percent) means the net emission reduction efficiency of all emissions collection devices.

Type A source means large point sources with actual annual emissions greater than or equal to any of the emission thresholds listed in Table 1 of Appendix A of this subpart for Type A sources. If a source is a Type A source for any pollutant listed in Table 1, then the emissions for all Table 1 pollutants must be reported for that source.

Unit ID code means a unique code for the unit of generation of emissions,

typically a physical piece of or a closely related set of equipment. The EPA's reporting format for a given inventory year may require multiple unit ID codes to ensure proper matching between databases, e.g., the state's own current and most recent unit ID codes, the EPA-assigned unit ID codes if any, and the ORIS (Department of Energy) ID code if applicable.

VMT by SCC means vehicle miles traveled disaggregated to the SCC level, i.e., reflecting combinations of vehicle type and roadway class. Vehicle miles traveled expresses vehicle activity and is used with emission factors. The emission factors are usually expressed in terms of grams per mile of travel. Because VMT does not correlate directly to emissions that occur while the vehicle is not moving, nonmoving emissions are incorporated into the emission factors in EPA's MOBILE Model.

VOC means volatile organic compounds. The EPA's regulatory definition of VOC is in 40 CFR 51.100.

Winter throughput (percent) means the part of throughput or activity attributable to the three winter months (January, February, December of the same year, e.g., winter 2005 is composed of January 2005, February 2005, and December 2005). See also the definition of Fall throughput.

Wk/yr in operation means weeks per year that the emitting process operates.

Work weekday means any day of the week except Saturday or Sunday.

X stack coordinate (longitude) means an object's east-west geographical coordinate.

Y stack coordinate (latitude) means an object's north-south geographical coordinate.

Appendix A to Subpart A of Part 51—Tables

TABLE 1 TO APPENDIX A OF SUBPART A—EMISSION THRESHOLDS BY POLLUTANT (TPY¹) FOR TREATMENT OF POINT SOURCES AS TYPE A UNDER 40 CFR 51.30.

Pollutant	Emissions threshold for Type A treatment
(1) SO ₂	≥2500.
(2) VOC	≥250.
(3) NO _x	≥2500.
(4) CO	≥2500.
(5) Pb	Does not determine Type A status.
(6) PM ₁₀	≥250.
(7) PM _{2.5}	≥250.
(8) NH ₃ ²	≥250.

¹ tpy = Tons per year of actual emissions.

² Ammonia threshold applies only in areas where ammonia emissions are a factor in determining whether a source is a major source, i.e., where ammonia is considered a significant precursor of PM_{2.5}.

TABLE 2a TO APPENDIX A OF SUBPART A—DATA ELEMENTS FOR REPORTING ON EMISSIONS FROM POINT SOURCES, WHERE REQUIRED BY 40 CFR 51.30

Data elements	Every-year reporting	Three-year reporting
(1) Inventory year	✓	✓
(2) Inventory start date	✓	✓
(3) Inventory end date	✓	✓
(4) Contact name	✓	✓
(5) Contact phone number	✓	✓
(6) FIPS code	✓	✓
(7) Facility ID codes	✓	✓
(8) Unit ID code	✓	✓
(9) Process ID code	✓	✓
(10) Stack ID code	✓	✓
(11) Site name	✓	✓
(12) Physical address	✓	✓
(13) SCC	✓	✓
(14) Heat content (fuel) (annual average)	✓	✓
(15) Heat content (fuel) (ozone season, if applicable)	✓	✓
(16) Ash content (fuel) (annual average)	✓	✓
(17) Sulfur content (fuel) (annual average)	✓	✓
(18) Pollutant code	✓	✓
(19) Activity/throughput (for each period reported)	✓	✓
(20) Summer day emissions (if applicable)	✓	✓
(21) Ozone season emissions (if applicable)	✓	✓
(22) Annual emissions	✓	✓
(23) Emission factor	✓	✓

TABLE 2a TO APPENDIX A OF SUBPART A—DATA ELEMENTS FOR REPORTING ON EMISSIONS FROM POINT SOURCES, WHERE REQUIRED BY 40 CFR 51.30—Continued

Data elements	Every-year reporting	Three-year reporting
(24) Winter throughput (percent)	✓	✓
(25) Spring throughput (percent)	✓	✓
(26) Summer throughput (percent)	✓	✓
(27) Fall throughput (percent)	✓	✓
(28) Hr/day in operation	✓	✓
(29) Day/wk in operation	✓	✓
(30) Wk/yr in operation	✓	✓
(31) X stack coordinate (longitude)	✓
(32) Y stack coordinate (latitude)	✓
(33) Method accuracy description (MAD) codes	✓
(34) Stack height	✓
(35) Stack diameter	✓
(36) Exit gas temperature	✓
(37) Exit gas velocity	✓
(38) Exit gas flow rate	✓
(39) NAICS at the Facility level	✓
(40) Design capacity (including boiler capacity if applicable)	✓
(41) Maximum generator nameplate Capacity	✓
(42) Primary capture and control efficiencies (percent)	✓
(43) Total capture and control efficiency (percent)	✓
(44) Control device type	✓
(45) Emission type	✓
(46) Emission release point type	✓
(47) Rule effectiveness (percent)	✓
(48) Winter work weekday emissions of CO (if applicable)	✓

TABLE 2b TO APPENDIX A OF SUBPART A—DATA ELEMENTS FOR REPORTING ON EMISSIONS FROM NONPOINT SOURCES AND NONROAD MOBILE SOURCES, WHERE REQUIRED BY 40 CFR 51.30

Data elements	Every-year reporting	Three-year reporting
(1) Inventory year	✓	✓
(2) Inventory start date	✓	✓
(3) Inventory end date	✓	✓
(4) Contact name	✓	✓
(5) Contact phone number	✓	✓
(6) FIPS code	✓	✓
(7) SCC	✓	✓
(8) Emission factor	✓	✓
(9) Activity/throughput level (for each period reported)	✓	✓
(10) Total capture/control efficiency (percent)	✓	✓
(11) Rule effectiveness (percent)	✓	✓
(12) Rule penetration (percent)	✓	✓
(13) Pollutant code	✓	✓
(14) Ozone season emissions (if applicable)	✓	✓
(15) Summer day emissions (if applicable)	✓	✓
(16) Annual emissions	✓	✓
(17) Winter throughput (percent)	✓	✓
(18) Spring throughput (percent)	✓	✓
(19) Summer throughput (percent)	✓	✓
(20) Fall throughput (percent)	✓	✓
(21) Hrs/day in operation	✓	✓
(22) Days/wk in operation	✓	✓
(23) Wks/yr in operation	✓	✓
(24) Winter work weekday emissions of CO (if applicable)	✓

TABLE 2c TO APPENDIX A OF SUBPART A—DATA ELEMENTS FOR REPORTING ON EMISSIONS FROM ONROAD MOBILE SOURCES, WHERE REQUIRED BY 40 CFR 51.30

Data elements	Every-year reporting	Three-year reporting
1. Inventory year	✓	✓
2. Inventory start date	✓	✓
3. Inventory end date	✓	✓
4. Contact name	✓	✓
5. Contact phone number	✓	✓

TABLE 2c TO APPENDIX A OF SUBPART A—DATA ELEMENTS FOR REPORTING ON EMISSIONS FROM ONROAD MOBILE SOURCES, WHERE REQUIRED BY 40 CFR 51.30—Continued

Data elements	Every-year reporting	Three-year reporting
6. FIPS code	✓	✓
7. SCC	✓	✓
8. Emission factor	✓	✓
9. Activity (VMT by SCC)	✓	✓
10. Pollutant code	✓	✓
11. Ozone season emissions (if applicable)	✓	✓
12. Summer day emissions (if applicable)	✓	✓
13. Annual emissions	✓	✓
14. Winter throughput (percent)	✓	✓
15. Spring throughput (percent)	✓	✓
16. Summer throughput (percent)	✓	✓
17. Fall throughput (percent)	✓	✓
18. Winter work weekday emissions of CO (if applicable)	✓	✓

Subpart G—[Amended]

■ 3. Section 51.122 is revised to read as follows:

§ 51.122 Emissions reporting requirements for SIP revisions relating to budgets for NO_x emissions.

(a) As used in this section, words and terms shall have the meanings set forth in § 51.50.

(b) For its transport SIP revision under § 51.121, each state must submit to EPA NO_x emissions data as described in this section.

(c) Each revision must provide for periodic reporting by the state of NO_x emissions data to demonstrate whether the state's emissions are consistent with the projections contained in its approved SIP submission.

(1) For the every-year reporting cycle, each revision must provide for reporting of NO_x emissions data every year as follows:

(i) The state must report to EPA emissions data from all NO_x sources within the state for which the state specified control measures in its SIP submission under § 51.121(g), including all sources for which the state has adopted measures that differ from the measures incorporated into the baseline inventory for the year 2007 that the state developed in accordance with § 51.121(g).

(ii) If sources report NO_x emissions data to EPA for a given year pursuant to a trading program approved under § 51.121(p) or pursuant to the monitoring and reporting requirements of 40 CFR part 75, then the state need not provide an every-year cycle report to EPA for such sources.

(2) For the three-year cycle reporting, each plan must provide for triennial (*i.e.*, every third year) reporting of NO_x emissions data from all sources within the state.

(3) The data availability requirements in § 51.116 must be followed for all data submitted to meet the requirements of paragraphs (b)(1) and (2) of this section.

(d) The data reported in paragraph (b) of this section must meet the requirements of subpart A of this part.

(e) Approval of ozone season calculation by EPA. Each state must submit for EPA approval an example of the calculation procedure used to calculate ozone season emissions along with sufficient information to verify the calculated value of ozone season emissions.

(f) Reporting schedules.

(1) Data collection is to begin during the ozone season 1 year prior to the state's NO_x SIP Call compliance date.

(2) Reports are to be submitted according to paragraph (b) of this section.

(3) Through 2011, reports are to be submitted according to the schedule in Table 1 of this paragraph. After 2011, triennial reports are to be submitted every third year and annual reports are to be submitted each year that a triennial report is not required.

TABLE 1—SCHEDULE FOR SUBMITTING REPORTS

Data collection year	Type of report required
2005	Triennial.
2006	Annual.
2007	Annual.
2008	Triennial.
2009	Annual.
2010	Annual.
2011	Triennial.

(4) States must submit data for a required year within the time specified after the end of the inventory year for which the data are collected. The first inventory (the 2009 inventory year) and all subsequent years will be due 12

months following the end of the inventory year, *i.e.*, the 2009 inventory must be reported to EPA by December 31, 2010.

(g) Data reporting procedures are given in subpart A. When submitting a formal NO_x Budget Emissions Report and associated data, states shall notify the appropriate EPA Regional Office.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0609; FRL–8749–1]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; New Source Review Reform “Linkage” Rule, Rule AM–32–04b

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving as a revision to the Wisconsin State Implementation Plan (SIP) changes to the minor New Source Review (NSR) construction permit program and permits fees schedule, through rule AM–32–04b. The purpose of rule AM–32–04b is to update Wisconsin's minor NSR construction permit program to include changes to implement some of the new elements of the Federal NSR Reform Rule for sources that meet certain provisions within the new major NSR permitting requirements. Rule AM–32–04b has been created to accompany Wisconsin's NSR Reform rules and is necessary to effectively implement them. Elsewhere in this **Federal Register**, EPA is approving Wisconsin's NSR Reform rules. The